

THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WILMINGTON DIVISION

In Re:	Case No:
Michelle Ballard Graham	14-01164-5-SWH
Debtor	
James B. Angell, Chapter 7 Trustee for Michelle Ballard Graham,	Adversary Proceeding No.:
Plaintiff,	14-00020-5-SWH
vs.	
Daniel L. Graham, III,	
Defendant.	

**NOTICE OF MOTION**

NOTICE is hereby given of the Motion for Approval of Compromise to compromise issues in this case, filed simultaneously herewith by James B. Angell ("Trustee"), Chapter 7 Trustee in the above-captioned case: and

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, of you have on in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the Motion for Approval of Compromise, or if you want the court to consider your views on the motion, then on or before **March 7, 2016**, unless otherwise ordered, you or your attorney must file with the court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing.

Pursuant to that Memorandum from Chief Bankruptcy Judge J. Rich Leonard, EDNC, dated February 24, 2005, attorneys practicing in the United States Bankruptcy Court for the Eastern District of North Carolina, including attorneys admitted pro hac vice, are required to file electronically all documents [including new bankruptcy petitions, motions, memoranda of law, and other pleadings, but excluding proofs of claim and documents to be placed under seal in accordance with Local Bankruptcy Rule 5005-4(6)]. Any documents required to be filed electronically pursuant to Local Bankruptcy Rule 5005-4(1) but presented in paper form on or after April 1, 2005 shall be accompanied by an application for an exemption from this rule and a proposed order granting the relief sought. The application shall state the reason(s) why electronic filing would impose an extreme hardship on the attorney. Local Bankruptcy Rules pertaining to electronic filing, including Local Bankruptcy rules 5005-4(1) and 5005-4(2) may be found on the Court's website [www.nceb.uscourts.gov](http://www.nceb.uscourts.gov). Electronic filing may be done through the court's web site. The Court's mailing address is at:

Clerk, U.S. Bankruptcy Court  
Eastern District of North Carolina  
PO Box 791  
Raleigh, North Carolina 27602

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Marjorie K. Lynch, Esquire Bankruptcy Administrator 434 Fayetteville Street, Suite 640 Raleigh, NC 27601	James B. Angell Chapter 7 Trustee Post Office Box 12347 Raleigh, NC 27605
Michelle Ballard Graham 10072 N. Olde Towne Wynd SE Leland, NC 28451	Richard P. Cook 205 N. 22nd Street Wilmington, NC 28405
Daniel L. Graham, III 10072 N. Olde Towne Wynd SE Leland, NC 28451	David F. Mills Stubbs Law Clinic, Director 225 Hillsborough Street, Ste. 401 Raleigh, NC 27603

If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the motion at a date, time and place to be later set and all parties will be notified accordingly.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

DATED: February 10, 2016

s/James B. Angell  
James B. Angell  
State Bar No 12844  
Howard, Stallings, From, Hutson, Atkins,  
Angell & Davis, P.A.  
P.O. Box 12347  
Raleigh, NC 27605  
Telephone: (919) 821-7700  
Facsimile: (919) 821-7703  
[JAngell@hsfh.com](mailto:JAngell@hsfh.com)

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In Re:	Case No:
Michelle Ballard Graham	14-01164-5-SWH
Debtor	
James B. Angell, Chapter 7 Trustee for Michelle Ballard Graham,	Adversary Proceeding No.:
Plaintiff,	14-00020-5-SWH
vs.	
Daniel L. Graham, III,	
Defendant.	

**MOTION FOR APPROVAL OF COMPROMISE**

NOW COMES James B. Angell (“Trustee”), Chapter 7 Trustee in the above-captioned case, by and through counsel, and pursuant to Bankruptcy Rule 9019, moves this Court for entry of an Order granting him authority to compromise and settle issues with Daniel L. Graham, III (“Defendant”) on the terms and conditions set forth on Exhibit A, attached hereto and incorporated herein by reference (the “Settlement Agreement”). In support of this Motion, the Trustee shows the Court the Following:

1. The Movant, James B. Angell, is the Chapter 7 Trustee.
2. The controversy or dispute sought to be compromised is:

On July 25, 2014, Plaintiff, by and through counsel, filed a complaint against Defendant pursuant to 11 U.S.C. §§ 544, 548, 550, and 551 seeking to recover a certain fraudulent transfer. The summons in this case was served on Defendant on or about July 29, 2014.

The foregoing matter is resolved on the following terms and conditions:

- a) The Defendant agrees to pay \$10,000.00 (“Settlement Amount”) in settlement of all claims brought by the Trustee against the Defendant. The Defendant shall pay the Settlement Amount as follows: (i) \$5,000.00 within five (5) days following entry of an order approving this Settlement Agreement; and (ii) \$5,000.00 in five (5) installments of \$1,000.00 each, due on or before April 30, 2016, June 30, 2016, August 30, 2016, October 30, 2016, and December 30, 2016. The payments described herein shall be made payable to James B. Angell, Chapter 7 Trustee for Michelle Ballard Graham. Payments may be sent to the attention of James B. Angell, Chapter 7 Trustee to P.O. Box 12347, Raleigh, North Carolina, 27605.

- b) Upon receipt of an executed copy of this settlement agreement, the Trustee will seek Court approval of this compromise. Upon entry of an order by the Court approving this compromise, the adversary proceeding will be closed without further notice or motion by the Plaintiff or the Defendant. The Plaintiff and the Defendant shall be responsible for their own attorneys' fees and costs relating to the above-referenced case.
- c) Upon receipt of the Settlement Amount and approval by the Bankruptcy Court of this compromise, the Trustee will have released any and all claims it has against the Defendant.
- d) Upon approval by the Bankruptcy Court of this compromise, Defendant will have released all claims against the Debtor, its estate, the Trustee and his counsel.

3. The terms of the proposed compromise are set forth on Exhibit A, attached hereto.

4. The Trustee has analyzed the proposed compromise, taking into consideration the facts, the strengths and weaknesses of the parties' positions, the equities involved, the information and evidence available to the Trustee to pursue the claims through trial and the costs of negotiation and litigation.

5. The Trustee believes the proposed settlement is in the best interest of the estate and its creditors and requests that the Court approve this Motion.

WHEREFORE, THE Trustee prays for an Order approving and authorizing the settlement on the terms described in this motion and Exhibit A attached.

DATED: February 10, 2016

s/James B. Angell  
James B. Angell, Chapter 7 Trustee  
North Carolina State Bar No 12844  
Howard, Stallings, From, Hutson, Atkins,  
Angell & Davis, P.A.  
P.O. Box 12347  
Raleigh, NC 27605  
Telephone: (919) 821-7700  
Facsimile: (919) 821-7703  
[JAngell@hsfh.com](mailto:JAngell@hsfh.com)



HOWARD, STALLINGS,  
FROM, HUTSON,  
ATKINS, ANGELL  
& DAVIS, P.A.

EXHIBIT A

Telephone: 919.821.7700 | Facsimile: 919.821.7703 | PO Box 12347, Raleigh, NC 27605

ATTORNEYS at LAW

www.HowardStallings.com

February 3, 2016

E. Cader Howard  
I. Allan From  
Joseph H. Stallings  
John N. Hutson  
Beth F. Atkins  
James B. Angell  
B. Joan Davis  
Brian E. Moore  
Michael A. Burger  
Kathleen B. Coyle  
Brooke L. Dalrymple  
Nicholas C. Brown  
Matthew M. Lawless  
Douglas D. Noreen  
Robert H. Jessup  
Elizabeth C. Buckley

David F. Mills  
David F. Mills, P.A.  
1559-B Booker Dairy Road  
Smithfield, NC 27577  
*Via email*

Re: James B. Angell, Chapter 7 Trustee v. Daniel L. Graham, III  
Adv. P. No. 14-00020-5-SWH

Dear David,

Of Counsel  
Edwin P. Friedberg  
(Deceased 2009)

The purpose of this letter is to establish the terms of a settlement agreement (the "Settlement Agreement") between Daniel L. Graham, III (the "Defendant") and James B. Angell, Chapter 7 Trustee ("Plaintiff" or "Trustee") in the above referenced case. Notwithstanding the informality of this letter, the terms of the Settlement Agreement set out herein are intended to be binding on the parties subject to Bankruptcy Court approval. My signature herein below indicates my consent to the Settlement Agreement as Attorney for James B. Angell, Chapter 7 Trustee for Michelle Ballard Graham in case no. 14-01164-5-SWH.

On July 25, 2014, Plaintiff, by and through counsel, filed a complaint against Defendant pursuant to 11 U.S.C. §§ 544, 548, 550, and 551 seeking to recover a certain fraudulent transfer. The summons in this case was served on Defendant or about July 29, 2014.

This matter is resolved on the following terms and conditions:

(1) The Defendant agrees to pay \$10,000.00 ("Settlement Amount") in settlement of all claims brought by the Trustee against the Defendant. The Defendant shall pay the Settlement Amount as follows: (i) \$5,000.00 within five (5) days following entry of an order approving this Settlement Agreement; and (ii) \$5,000.00 in five (5) installments of \$1,000.00 each, due on or before April 30, 2016, June 30, 2016, August 30, 2016, October 30, 2016, and December 30, 2016. The payments described herein shall be made payable to James B. Angell, Chapter 7 Trustee for Michelle Ballard Graham. Payments may be sent to the attention of James B. Angell, Chapter 7 Trustee to P.O. Box 12347, Raleigh, North Carolina, 27605.

(2) Upon receipt of an executed copy of this settlement agreement, the Trustee will seek Court approval of this compromise. Upon entry of an order by the Court approving this compromise, the adversary proceeding will be closed without further notice or

**RALEIGH OFFICE**

5410 Trinity Road  
Suite 210  
Raleigh, NC 27607  
Telephone: 919.821.7700  
Facsimile: 919.821.7703  
Toll Free: 800.822.4182

**OTHER LOCATIONS**

New Bern, NC  
Morehead City, NC



February 3, 2016  
Page 2 of 3

motion by the Plaintiff or the Defendant. The Plaintiff and the Defendant shall be responsible for their own attorneys' fees and costs relating to the above-referenced case.

- (3) Upon receipt of the Settlement Amount and approval by the Bankruptcy Court of this compromise, the Trustee will have released any and all claims it has against the Defendant.
- (4) Upon approval by the Bankruptcy Court of this compromise, Defendant will have released all claims against the Debtor, its estate, the Trustee and his counsel.

In the event the Trustee does not timely receive payment of the Settlement Amount as set forth in paragraph 1 above, this Agreement will be null and void at the option of the Trustee such that the Trustee may continue the above-captioned adversary proceeding against Defendant.

If the Settlement Amount is timely received by the Trustee as set forth in paragraph 1 above, the Trustee will release the funds for the benefit of the bankruptcy estate upon Bankruptcy Court approval of this compromise. If the compromise is not approved by the Bankruptcy Court, the Settlement Amount will be refunded to the Defendant.

If the foregoing comports with your understanding of the Settlement Agreement, kindly indicate your consent and agreement on behalf of the Defendant to the terms set forth herein in the space provided below.

Signing a copy of this correspondence shall constitute a legal, valid and binding obligation upon the parties hereto and shall be enforceable in accordance with its terms.

This Settlement Agreement shall be binding upon the parties upon your execution below as if it was an original signature and shall inure to the benefit of each of the parties hereto and their respective successors and assigns and any successor of any of them.

Each party hereto represents and warrants that it has the full power and authority to execute, deliver and perform this Settlement Agreement, that each individual signing on behalf of each party is authorized by that party to execute this Settlement Agreement on its behalf.

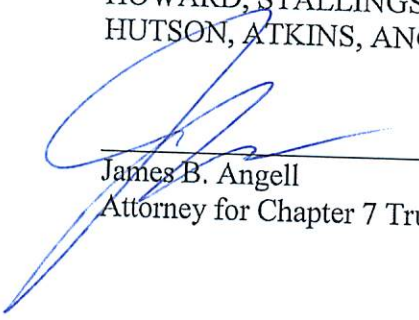
This document constitutes the entire Settlement Agreement of the parties and supersedes all prior or contemporaneous agreements, discussions, or representations, oral or written, relating to the subject matter hereof, and by signing below, the Defendant states that it has read each of the paragraphs hereof and understands the same and the legal obligations created hereby.

February 3, 2016  
Page 3 of 3

With best wishes we remain,


Very truly yours,

HOWARD, STALLINGS, FROM  
HUTSON, ATKINS, ANGELL & DAVIS, P.A.



James B. Angell  
Attorney for Chapter 7 Trustee

We Consent:



David F. Mills  
Attorney for Defendant

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Defendant.	

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury that she is over eighteen (18) years of age and the MOTION FOR APPROVAL OF COMPROMISE AND NOTICE OF MOTION was this day served upon the below named persons, parties and/or counsel by mailing, postage prepaid, first class mail, a copy of such instruments to such persons, parties and/or counsel at the address shown below:

Marjorie K. Lynch, Esquire Bankruptcy Administrator <i>Served via cm/ecf &amp; by email at:</i> <a href="mailto:Karen_Cook@nceba.uscourts.gov">Karen_Cook@nceba.uscourts.gov</a> <a href="mailto:Lesley_Cavenaugh@nceba.uscourts.gov">Lesley_Cavenaugh@nceba.uscourts.gov</a>	David F. Mills Stubbs Law Clinic <i>via cm/ecf</i>
Daniel L. Graham, III 10072 N. Olde Towne Wynd SE Leland, NC 28451	Richard Preston Cook Richard P. Cook, PLLC <i>via cm/ecf</i>
Michelle Ballard Graham 10072 N. Olde Towne Wynd SE Leland, NC 28451	



Dated: February 10, 2016

s/Michelle R. Murdock  
Michelle R. Murdock, Paralegal  
Howard, Stallings, From, Hutson, Atkins,  
Angell & Davis, P.A.  
P.O. Box 12347  
Raleigh, NC 27605  
Telephone: (919) 821-7700  
Facsimile: (919) 821-7703